

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

## SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

VS.

JOHNNY TSENG (a/k/a Kuanhao J. Tseng, Kuanhao Tseng), KEVIN ZHANG (a/k/a Kevin Huapeng Zhang, Huapeng Zhang), and SUMMITCREST CAPITAL, INC.,

## Defendants.

Case No. 5:23-cv-01488-JGB(KKx)

# **FINAL JUDGMENT AS TO DEFENDANT JOHNNY TSENG**

The Securities and Exchange Commission having filed a Complaint and Defendant Johnny Tseng, a/k/a Kuanhao J. Tseng, Kuanhao Tseng (“Tseng” or “Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment as to Defendant without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VIII); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

1 II.

2 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
3 Defendant is permanently restrained and enjoined from violating Section 17(a) of the  
4 Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale  
5 of any security by the use of any means or instruments of transportation or  
6 communication in interstate commerce or by use of the mails, directly or indirectly:

- 7 (a) to employ any device, scheme, or artifice to defraud;
- 8 (b) to obtain money or property by means of any untrue statement of a  
9 material fact or any omission of a material fact necessary in order to  
10 make the statements made, in light of the circumstances under which  
11 they were made, not misleading; or
- 12 (c) to engage in any transaction, practice, or course of business which  
13 operates or would operate as a fraud or deceit upon the purchaser.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as  
15 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also  
16 binds the following who receive actual notice of this Final Judgment by personal  
17 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and  
18 attorneys; and (b) other persons in active concert or participation with Defendant or  
19 with anyone described in (a).

20 III.

21 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that  
22 Defendant is permanently restrained and enjoined from violating Section 5 of the  
23 Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any  
24 applicable exemption:

- 25 (a) Unless a registration statement is in effect as to a security, making use of  
26 any means or instruments of transportation or communication in  
27 interstate commerce or of the mails to sell such security through the use  
28 or medium of any prospectus or otherwise;

- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or
- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)], Defendant is permanently restrained and enjoined from, directly or indirectly, including, but not limited to, through any entity owned or controlled by Defendant, participating in the issuance, purchase, offer, or sale of any security; provided, however, that such injunction shall not prevent Defendant from purchasing or selling securities for his own personal account.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] and Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)], Defendant is prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$16,600,000.00, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$4,349,481.52, on a joint and several basis, and disgorgement of \$60,000.00, together with prejudgment interest thereon in the amount of \$15,721.03, on an individual basis, pursuant to Sections 21(d)(5) and 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(5) and 15 U.S.C. § 78u(d)(7)]; and a civil penalty in the amount of \$414,366.00, pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. Defendant shall satisfy this obligation by paying \$21,439,568.55 to the Securities and Exchange Commission within 30 days after entry of this Final Judgment.

1       Defendant may transmit payment electronically to the Commission, which will  
2 provide detailed ACH transfer/Fedwire instructions upon request. Payment may also  
3 be made directly from a bank account via Pay.gov through the SEC website at  
4 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified  
5 check, bank cashier's check, or United States postal money order payable to the  
6 Securities and Exchange Commission, which shall be delivered or mailed to

7              Enterprise Services Center  
8              Accounts Receivable Branch  
9              6500 South MacArthur Boulevard  
10             Oklahoma City, OK 73169

11 and shall be accompanied by a letter identifying the case title, civil action number,  
12 and name of this Court; Tseng as a defendant in this action; and specifying that  
13 payment is made pursuant to this Final Judgment.

14       Defendant shall simultaneously transmit photocopies of evidence of payment  
15 and case identifying information to the Commission's counsel in this action. By  
16 making this payment, Defendant relinquishes all legal and equitable right, title, and  
17 interest in such funds and no part of the funds shall be returned to Defendant.

18       The Commission may enforce the Court's judgment for disgorgement and  
19 prejudgment interest by using all collection procedures authorized by law, including,  
20 but not limited to, moving for civil contempt at any time after 30 days following entry  
21 of this Final Judgment.

22       The Commission may enforce the Court's judgment for penalties by the use of  
23 all collection procedures authorized by law, including the Federal Debt Collection  
24 Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the  
25 violation of any Court orders issued in this action. Defendant shall pay post  
26 judgment interest on any amounts due after 30 days of the entry of this Final  
27 Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the funds,  
28 together with any interest and income earned thereon (collectively, the "Fund"),

1 pending further order of the Court.

2       The Commission may propose a plan to distribute the Fund subject to the  
3 Court's approval. Such a plan may provide that the Fund shall be distributed  
4 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of  
5 2002. The Court shall retain jurisdiction over the administration of any distribution  
6 of the Fund and the Fund may only be disbursed pursuant to an Order of the Court.

7       Regardless of whether any such Fair Fund distribution is made, amounts  
8 ordered to be paid as civil penalties pursuant to this Final Judgment shall be treated as  
9 penalties paid to the government for all purposes, including all tax purposes. To  
10 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or  
11 reduction of any award of compensatory damages in any Related Investor Action  
12 based on Defendant's payment of disgorgement in this action, argue that he is entitled  
13 to, nor shall he further benefit by, offset or reduction of such compensatory damages  
14 award by the amount of any part of Defendant's payment of a civil penalty in this  
15 action ("Penalty Offset"). If the court in any Related Investor Action grants such a  
16 Penalty Offset, Defendant shall, within 30 days after entry of a final order granting  
17 the Penalty Offset, notify the Commission's counsel in this action and pay the amount  
18 of the Penalty Offset to the United States Treasury or to a Fair Fund, as the  
19 Commission directs. Such a payment shall not be deemed an additional civil penalty  
20 and shall not be deemed to change the amount of the civil penalty imposed in this  
21 Final Judgment. For purposes of this paragraph, a "Related Investor Action" means a  
22 private damages action brought against Defendant by or on behalf of one or more  
23 investors based on substantially the same facts as alleged in the Complaint in this  
24 action.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

IX.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

X.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: October 20, 2023

  
John M. Keay  
UNITED STATES DISTRICT JUDGE